

Robert E. Thompson, Esq.
110 Sutter Street, Suite 501
San Francisco, California 94104
California State Bar No. 93022
Telephone: (415) 543-2818
Facsimile: (415) 788-6144

Attorney for Plaintiff
Gabrielle Lema

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GABRIELLE LEMA,

Plaintiff,

v.

SIRVA/NAL WORLDWIDE LOGISTICS,
ET AL.,

Defendants.

CASE NO. C07-03631 JF

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF MOTION
FOR LEAVE TO AMEND COMPLAINT**

Hearing Date: December 21, 2007
Hearing Time: 9:00 AM
Courtroom: 3

**Before the Honorable United States
District Court Judge Jeremy Fogel**

Plaintiff Gabrielle Lema, through her undersigned attorney of record, respectfully submits the following memorandum in support of her motion for leave to amend her complaint:

I. PROCEDURAL BACKGROUND

On April 23, 2007, following her receipt of a "Right To Sue" letter, plaintiff caused the filing of a Complaint For Damages, as a Pro Per plaintiff, in the Superior Court for the State of California, County of Alameda, Case Number G 07322091. Plaintiff, in Pro Per, filed an amendment to the State Court complaint on May 30, 2007. Thereafter,

1 On July 13, 2007, defendants Sirva/Nal Worldwide Logistics, Sirva, Inc.,
2 Joe Jenio, Scott Black, Ken Whelan, and Ramon Padilla, filed and joined
3 in a Notice of Removal, respectively.

4 On July 17, 2007, Sirva/Nal Worldwide Logistics, Sirva, Inc., Nal
5 Worldwide, LLC, Juan Cortes, Joe Jenio, Scott Black, Ken Whelan, Marilyn
6 Beardsley, Ramon Padilla, for filed their joint Answer to the Complaint
7 For Damages.

8 On August 13, 2007, plaintiff in Pro Per, filed an Opposition and
9 Rebuttal to Defendant's Notice of Removal of Civil Action.

10 On September 4, 2007, undersigned counsel entered appearance to
11 represent plaintiff in this action.

12 This action is scheduled for Case Management Conference on November
13 30, 2007, and Mediation on December 13, 2007. Plaintiff submits that
14 she will be unduly prejudiced if she cannot pursue her complete action
15 pursuant to the desired amended complaint.

16 **II. PARTIES**

17 At relevant times to plaintiff's injuries, she was employed by
18 Sirva/Nal Worldwide Logistics, Sirva, Inc. And/or Nal Worldwide, LLC.
19 Plaintiff's initial complaint named "Sirva/Nal Worldwide Logistics" as
20 a defendant. It appears that the proper company may be Sirva, Inc.

21 Defendants Juan Cortes, Joe Jenio, Scott Black, Ken Whelan, Marilyn
22 Beardsley, Ramon Padilla, were supervisors, officers and/or co-workers
23 for plaintiff and plaintiff believes that each has participated in the
24 wrongdoing which contributed to her harassment, injuries, damages. Of
25 these named individual defendants, all have participated in this action
26 except Juan Cortes, and Marilyn Beardsley, who have not yet been served
27 with process.
28

1 **III. ARGUMENT**

2 The court may grant leave to amend the pleadings at any stage of
 3 the action. Granting or denial of leave to amend rests in the sound
 4 discretion of the trial court. *Swanson v. United States Forest Service*
 5 (9th Cir. 1996) 87 F3d 339, 343. The Federal Rules require that "leave
 6 shall be freely given when justice so requires." *Federal Rules of Civil*
 7 *Procedure* 15(a).

8 The Court's granting of this motion for leave to amend the
 9 complaint will cause prejudice to the parties before the Court. See,
 10 *Morongo Band of Mission Indians v. Rose* (9th Cir. 1990) 893 F2d 1074,
 11 1079.

12 **III. CONCLUSION**

13 For the foregoing reasons and in the interest of justice, plaintiff
 14 submits that the court should grant her leave to file her Amended
 15 Complaint.

16 /s/

17 Dated: November 16, 2007

18 _____
 19 Robert E. Thompson, Esq.
 20 Attorney for Plaintiff
 21 Gabrielle Lema
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